

Exhibit L

1 NO. 21-CI-06290

JEFFERSON CIRCUIT COURT
DIVISION FOUR (4)
JUDGE JULIE KAE LIN

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5 MATTHEW STRECK, Individually, et al. PLAINTIFFS

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8 V. VIDEO DEPOSITION FOR THE DEFENDANTS

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11 JOHNSON AND JOHNSON, et al. DEFENDANTS

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15 DEPONENT: WILLIAM E. LONGO, Ph.D.

16 DATE: MAY 16, 2023

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1 That's done by another individual at your lab?

2 A. Correct. I don't -- I don't analyze
3 these from start to finish. I just get called in if
4 there's a question or -- on the refractive indices or
5 structure, sort of the tiebreaker.

6 Q. Okay. And so am I correct that for
7 each of the 21 Gold Bond samples identified on this
8 chart, as well as the additional sample that you
9 referenced a moment ago for a total of 22 samples,
10 those were all tested for purposes of the PLM
11 analysis for chrysotile by Mr. Paul Hess, is that
12 right?

13 A. Yes, sir, I believe so.

14 Q. Okay. And it's -- is it Mr. Hess --
15 he's the one who's looking through the PLM microscope
16 to make the determination of the particle's color and
17 then also a determination to match it to a refractive
18 index?

19 A. Yes.

20 Q. And he makes that determination in
21 both the parallel orientation of the particle as well
22 as the perpendicular orientation of the particle,
23 correct?

24 A. That is correct.

25 Q. Is it Mr. Hess that also makes the

1 30 -- 31 or 32 other structures that have been
2 identified as chrysotile, correct?

3 A. He is.

4 Q. And the slides -- the microscope
5 slides that would support the data and his finding
6 that there were 37 bundles of chrysotile, those
7 slides are discarded shortly after the analysis,
8 correct?

9 A. They don't last within a couple of
10 weeks.

11 Q. And so they would be discarded,
12 correct?

13 A. Yes.

14 Q. Let me get out of this.

15 Dr. Longo, at the beginning of the
16 deposition we were talking about exposures, and you
17 talked about Mr. Streck's exposure through brake work
18 and the Americana project, and I believe the term you
19 used was "significant exposure." Is that the term
20 you're comfortable using?

21 A. Yes. I just -- I don't use it as a --
22 when I say "significant," I'm using it as significant
23 over background, which I don't -- which background
24 asbestos, in my opinion, does not exist unless
25 asbestos is being disturbed, but I use it as a

1 A. That's not true. They're not
2 subtracting anything like that. They're taking and
3 comparing the two. So when people say that's how he
4 does the birefringence, that's just not true.

5 Q. When you say "comparing the two," what
6 do you mean?

7 A. Well, he's looking at the highest
8 birefringence in the Michel-Levy charts and he's
9 looking at the -- if he has a range, looking at the
10 lowest alpha. And then he's going over and looking
11 at the chart, trying to match up those colors. And
12 you'll see a lot of -- when they do that they go low
13 to medium, you know, you've got this range, where
14 when you do the actual calculation you can say this
15 is low or this is the low end of moderate. I think
16 it's much more accurate.

17 Q. Okay. Let's just look at one more of
18 these real quick. Okay. So this one here -- and
19 just for the record, this is M71614-001CSM-004,
20 page 47 of Exhibit 7. And this one here you have a
21 refractive index of 1.565 to 1.568 in parallel?

22 A. Correct.

23 Q. And so for this, why is there a range
24 provided rather than a single -- a single value?

25 A. Because Mr. Hess thinks it's more

1 accurate to do that way because you've got this like
2 dispersion, change in color, if you look around the
3 edge.

4 If I take the average of that and go
5 to the high end, you know, it's just 1 point -- it
6 would be 1.566 to 1.567. It would be easier just to
7 average that and take the high side of it. You're
8 going to get basically the exact same thing,
9 refractive -- I mean on the birefringence, but...

10 Q. Okay. Yeah, that was going to be my
11 next question. Like how does this impact, if at all,
12 the birefringence calculation?

13 A. It actually doesn't when you -- if you
14 were to average the two. But what we do is you'll
15 take the high end of the gamma here and the high end
16 of the alpha, subtract it out, then average those
17 two. Or if you were to average this out and do the
18 exact same thing, you would get just about the exact
19 same number on the calculation.

20 Q. All right. And so I think you said
21 earlier today that it's your view that EPA R-93
22 calculates birefringence in the same way that you are
23 calculating birefringence?

24 A. No, I didn't say that. I said they
25 have examples of ranges that are in Table 2.2 --

1 high a gamma in the chrysotile-added products.

2 So it's not so much relying on -- it's
3 this is how -- they show you that when you're
4 subtracting it out this is how it's done. You don't
5 take a high and a low.

6 And it's also the same thing that --
7 in the Deer, Howie, Zussman, how -- the same way
8 they're calculating ranges.

9 MR. VIVES: All right. Well, we've
10 been going for a while. Why don't we take a break.

11 THE WITNESS: Sure, yeah. What time
12 it is?

13 MR. VIVES: 3:08.

14 THE WITNESS: 3:00, wow. I won't hold
15 you to this. Are we off the record?

16 MR. SMITH: Not yet. We can go off
17 the record.

18 THE MODERATOR: Off the record at
19 3:09 p.m.

20 (OFF THE RECORD)

21 THE MODERATOR: We are on the record
22 at 3:25 p.m.

23 BY MR. VIVES:

24 Q. Okay, Dr. Longo, we're back after a
25 quick break. I just want to come back to a few

1 things we were just talking about.

2 I think you said that PLM analysis
3 is -- whether it's subjective depends on the analyst
4 who's performing the analysis, or something along
5 those lines, is that correct?

6 A. That's correct.

7 Q. And so just to make sure I'm clear --

8 A. And how much experience they have on
9 doing this, you know, repetitive, et cetera. And so
10 just doing asbestos-added products, you know, it's
11 pretty straightforward.

12 Q. But you wouldn't disagree that there's
13 certainly a subjective element to PLM analysis.

14 A. You know, just depends on your
15 training and how much experience you've got. You
16 know, this -- and it's typically .00 -- 0.0005 is the
17 error rate. So it's like anything else, these types
18 of analysis. But I don't think it's that subjective
19 if you are well experienced and you look at standards
20 and you validate the method.

21 Q. And this subjective part would be
22 somebody looks under a microscope, looks at a sample
23 under a PLM microscope, and they try to match up the
24 color they're seeing to the color on a central
25 dispersion staining chart, correct?

1 STATE OF KENTUCKY)(
)(SS:
2 COUNTY OF JEFFERSON)(
3

4 I, ELLEN L. COULTER, Notary Public,
5 State of Kentucky at Large, hereby certify that the
6 foregoing deposition was taken at the time and place
7 stated in the caption; that the appearances were as
8 set forth in the caption; that prior to giving
9 testimony the witness was first duly sworn by me;
10 that said testimony was taken down by me in
11 stenographic notes and thereafter reduced under my
12 supervision to the foregoing typewritten pages and
13 that said typewritten transcript is a true, accurate
14 and complete record of my stenographic notes so
15 taken.

16 I further certify that I am not
17 related by blood or marriage to any of the parties
18 hereto and that I have no interest in the outcome of
19 captioned case.

20 Given under my hand this the
21 day of , , at
22 Louisville, Kentucky.

23 My commission as Notary Public expires
24 November 5, 2023.

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